

James Alan Bush
1211 East Santa Clara Avenue #4
San Jose, CA 95118
(408) 217-8282

FILED

2008 JUN 26 P 1:59

Plaintiff in pro per

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

James Alan Bush,) Case No.: C 08-01354 (RS) JF
)
Petitioner,) NOTICE OF MOTION FOR SUMMARY
) JUDGMENT FOR PETITION FOR
v.) INJUNCTIVE AND DECLARATORY RELIEF
) AND DAMAGES FOR REFUSAL TO PERMIT
Valley Medical Center: Emergency) REVIEW OF PERSONAL RECORD
Psychiatric Services,)
)
Respondent.) Judge Jeremy Fogel
)

NOTICE OF MOTION FOR SUMMARY JUDGMENT

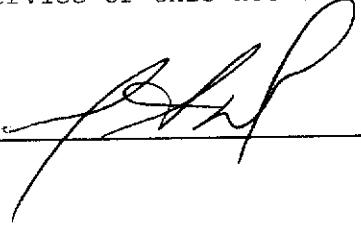
TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on August 22nd, 2008, at 9:00 AM, in Courtroom 3, 5th Floor, Petitioner will move the Court for summary judgment, pursuant to Rule 56(a) of the Federal Rules of Civil Procedure, on his petition for injunctive and declaratory relief a

1 damages against Valley Medical Center: Emergency Psychiatric Services,
2 Respondent, on the grounds set forth in the attached motion.

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4 **RECORDS ON MOTION**

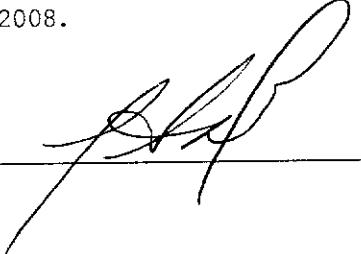
5 This notice is accompanied by a motion for summary judgment, a
6 verified petition, and its memoranda and exhibits, and the following
7 proof of service of this notice.

8
9 Signed: 

Dated: 6-26-08

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11 **CERTIFICATE OF SERVICE**

12 A copy of the above notice of motion was hand-delivered by the
13 petitioner to Valley Medical Center: Emergency Psychiatric Services,
14 located at 820 Enborg Court, in San Jose, California, on Thursday,
15 June 26th, 2008.

16
17 Signed: 

Dated: 6-26-08

1 James Alan Bush
2 1211 East Santa Clara Avenue #4
3 San Jose, CA 95118
4 (408) 217-8282

5 Plaintiff in pro per
6
7

FILED

2008 JUN 26 P 2:00

RICHARD W. WIEKANG
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CALIF. S.J.

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 SAN JOSE DIVISION

11 *CF*

12
13 James Alan Bush,) Case No.: C 08-01354 (RS) JF
14 Petitioner,)
15 v.) MOTION FOR SUMMARY JUDGMENT
16 Valley Medical Center: Emergency) [FED. R. CIV. P. 56(A)] FOR
17 Psychiatric Services,) PLAINTIFF'S PETITION FOR INJUNCTIVE
18) AND DECLARATORY RELIEF AND DAMAGES
19) FOR REFUSAL TO PERMIT REVIEW OF
20) PERSONAL RECORD
21)
22) Respondent.) Judge Jeremy Fogel
23)
24)
25)
26)

21 RELIEF SOUGHT

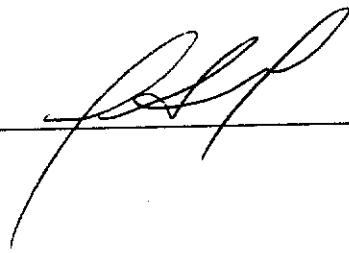
22 Petitioner moves the Court for summary judgment against Respondent,
23 Valley Medical Center: Emergency Psychiatric Services, and prays for all
24 of the relief set forth in his petition for injunctive and declaratory
25 relief and damages for the respondent's unlawful refusal to permit the
26 petitioner to inspect his medical records.

GROUND FOR RELIEF

Petitioner is entitled to the relief sought because, as is fully shown in his petition, and its declarations, exhibits, and memoranda, there are no genuine issues of material fact that need to be tried in this action; and, there are no affirmative defenses available to the respondent:

1. This petition sufficiently establishes the statutory right of Petitioner to obtain discovery, as provided herein; and, that the statutory basis for the respondent's refusal to provide the requested information is inapplicable to the petitioner and/or is superseded by other provisions, which authorize disclosure.
2. Respondent, Valley Medical Center: Emergency Psychiatric Services, has refused, and continues to refuse, to provide access to Petitioner's medical records.
3. Petitioner will likely suffer and incur damages as a result of the deprivation of his civil rights by law enforcement officials, acting under color of state law, who may exercise their discretion in matters related to Petitioner using his mental health certification.
4. Unless the mental health certification is expunged, at least during the pendency of Petitioner's claim, Petitioner is likely to sustain further irreparable mental and physical harm.
5. Petitioner's complaint for his cause of action for unlawful commitment against Respondent, Valley Medical Center: Emergency Psychiatric Services, and others, will be unfairly prejudiced by the continued delay and the denial of his lawful request for disclosure of his mental health records.

1 6. Petitioner is likely to suffer further harm by the unauthorized
2 disclosure of his mental health records by defendants in the
3 related complaint, filed on March 10th, 2008, to this matter, in
4 that, by publicizing the contents of his mental health records, the
5 aforementioned respondent and others have biased opinion against
6 the petitioner, which has resulted in unfavorable termination of
7 official determinations and judicial proceedings.

8 Signed: 

9 Dated: 6-25-08

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